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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 153/2023 & CM APPL. 33637/2023**
RAJENDARI DEVI & ANR.Appellants

Through: None.

versus

UNION OF INDIARespondent

Through: Mr. Ankit Raj, Sr. Panel Counsel with
Mr. Vedansh Anand, GP, Mr. Ali
Mohammed Khan, Ms. Insha, Mr.
Pradip Sharma, and Mr. Vikram
Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

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15.04.2025

1. The hearing is being conducted through hybrid mode.
2. No one appeared for the appellants when the matter was called. No appearance was put on behalf of the appellants even on 03.09.2024. Therefore, the instant appeal comes up for final disposal.
3. Having heard the learned counsels for the respondent and upon perusal of the record, this Court finds that the present appeal, instituted under Section 23 of the Railway Claims Tribunal Act, 1987 [hereinafter referred as “**RCT Act**”], assailing the impugned order dated 01.02.2023 passed by the learned Railway Claims Tribunal, Delhi [hereinafter referred as “**RCT**”], whereby the claim for compensation of the appellants was dismissed, is bereft of any merits.
4. In brief, the appellants are the parents of the deceased, Manoj Kumar, aged 27 years. They claim that on 25.01.2022, the deceased undertook a journey from Delhi Junction to Aligarh Junction and, during the course of the journey, fell from a running train somewhere between Sikandarpur and



Khurja Junction at KM No. 1374/20-22, resulting in his death. It was claimed that the journey ticket was lost in the course of the incident. The appellants accordingly sought statutory compensation amount of Rs.8,00,000/- along with interest.

5. Suffice to state that the respondent contested the claim for compensation filed by the appellants/claimants, asserting that the deceased was not a *bona fide* passenger and did not die in an untoward incident. It was the case that the deceased was struck by a running train while crossing the railway tracks.

6. The DRM report, marked as Ex. R-1 and filed along with the written statement, records that the brother of the deceased, namely Ravi Kumar, made a statement to the police that his brother Manoj Kumar had left their home on 22.01.2023 without telling anyone, as he was suffering from a mental illness and was also hard of hearing. He further stated that the deceased died while crossing the railway tracks.

7. The learned RCT based on the pleadings of the parties framed the following the issues:

- “1. Whether the deceased was a bona fide passenger in the train in question at the time of the incident?
2. Whether there was any untoward incident as is defined under the Provisions of Section 123 (c) of Railways Act, 1989?
3. Whether the applicants are dependents of the deceased?
4. Whether the applicant is entitled for any relief and interest as prayed for in the application?
5. Relief, if any?”

8. During the course of enquiry, Smt. Rajendari Devi, mother of the deceased as well as Ravi Kumar, brother of the deceased was examined as AW-1 and AW-2 respectively.

9. Based on the evidence led on the record, the learned RCT gave a



finding that the deceased was not travelling in any train and rather he had died while crossing the railway tracks and, in the process, was hit by a running train.

10. It would be expedient to reproduce the reasons which prevail in the mind of the learned RCT while deciding the claim petition under Section 16 of the RCT Act, which read was under:

“Issue No.1 & 2

Both the issues are interrelated and are therefore, dealt together for convenience. In the present case applicants have not disclosed the train number by which deceased was undertaking journey. The claim application only pleads that he was undertaking journey from Delhi Junction to Aligarh Junction by an express train. No journey ticket was recovered from the applicants they have averred that ticket was lost in the incident. Counsel for the respondent led his argument by stating that on 25.01.2022 at 15:30 hours Keyman, Raj Kumar informed over phone that on the side of down line at KM 1374/20-22 a dead body was lying. Station Master, Sikandarpur informed Civil Police and RPF officials. RPF officials also received similar information from MCR, Tundla and immediately on receipt of the information ASI, RPF, Subhash Chand Jat with Constable Udham Singh reached the site where he found that Keyman, Raj Kumar was present. During their presence Civil Police Officials reached but they stated that the area did not fall under their jurisdiction and thereafter Sub Inspector, Braj Mohan Singh from GRP Khurja reached the site and took control of the body and started police proceedings. During Jamatalashi Railway receipt dated 20.1.2022 bearing number 0328421 Ex. with name Vinod, one platform ticket number 16928670 dated 13.01.2022 were recovered. The dead body was in mutilated condition. We have seen the Panchayatnama conducted by GRP officials between 17:30 to 22:30 hours which is for an unknown person aged 30 years and the same mentions recovery of receipt of mobile of Sachin Communications mentioning name of deceased as Manoj Kumar, Rs.50/- in a purse, penalty ticket of 20th January, 2022 and platform ticket of 13.01.2022. The dead body was in a mutilated condition (क्षत विक्षत) with head crushed, right leg crushed below knee, left leg fractured and right hand fractured from shoulder. The Rai Panchang mentions cause of the death as run over by some train. The post mortem report also mentions crushed injury present over face and head with all facial and head bones fractured with both eyes, eye bulb and brain missing besides traumatic amputation of right leg from knee



joint, right shoulder fractured, lacerated wound over pelvic region, traumatic swelling over left middle thigh with underlying bone fractured and lacerated would muscle deep over left foot dorsal aspect. DRM Report has brought out that on verification excess fare ticket recovered from the deceased from Khurja Junction, it was found to be for travelling of deceased without ticket on 20.1.22 for which a penalty of Rs. 310/- was imposed. DRM report has also brought out an application addressed to Officer In-charge, GRP, Aligarh by Ravi Kumar, younger brother of deceased (Ex. R-2) which mentions that deceased was having mental problem and was hard of hearing. On 22.01.2022 he left home without telling anyone and in spite of extensive search he was not found till 26.01.2022 when his family was informed that one person was over at Aligarh- Delhi railway line and dead body was lying in post mortem house, Aligarh. Thereafter he along with his family members reached mortuary and identified the dead body. The said application was received on 26.01.2022 and is signed by Ravi Kumar in presence of one Dinesh Kumar son of Banwari Lal.

In the present case as has been argued by counsel for the respondent no train's name or number was mentioned and even there is no evidence that the deceased had bought any journey ticket to perform the journey. Moreover, medical evidences as is seen from post mortem report are of crushed injuries. Counsel for the respondent stated further that except for presence of a dead body by the side of Railway track there is no evidence available to support status of deceased as the bona fide passenger and the occurrence being an untoward incidence. In the present case even the testimony of AW-1 and AW-2 are not mentioning as to where from the ticket was bought and which train was boarded by the deceased. Since, the dead body was found by the side of the down track a story has been made of deceased travelling by mail express train and also about his accidental fall resulting in his death. Counsel for the respondent further stated that injuries as per the post mortem could happen only due to run over by some train.

Having heard both the counsels we are unable to appreciate the averments made in the claim application and the argument led by counsel for the applicant that deceased was a bona fide passenger and he died in an untoward incident. Accordingly, for the lack of evidence we decide both the issues of bona fide and untoward incident against the applicants and in favor of the respondent."

11. A careful perusal of the aforesaid reasons would bring out that both AW-1 and AW-2 were not eye-witnesses to the accident. Further, they were unable to spell out as to by which train the deceased was travelling. There



was found no railway ticket with the body of the deceased.

12. Furthermore, having regard to the fact that the body of the deceased was badly mutilated into different pieces, the finding recorded by the learned RCT that the deceased might have been crossing the railway tracks unauthorizedly and was hit by a running train in the process, cannot be ruled out.

13. Incidentally, it is pertinent to mention that AW-2/Ravi Kumar, was confronted with the statement made to the Investigating Officer. Although he acknowledged filing a complaint with the police regarding the incident and admitted to his signatures on the same, which is Ex. R-2, he denied having stated that his brother was mentally imbalanced or that he was hard of hearing. There is nothing on record to suggest that the Investigating Officer fabricated the statement of AW-2/Ravi Kumar, in any manner. On the contrary, there is every presumption that, being a public officer, the Investigating Officer recorded the statement of the witnesses truthfully in the ordinary course of his official duties.

14. In view of the above, the findings recorded by the learned RCT that the deceased was neither a *bona fide* passenger nor died in an untoward incident, cannot be said to be illegal, perverse or suffering from any infirmity in fact and law.

15. Accordingly, the present appeal is dismissed. All pending applications also stand disposed of.

DHARMESH SHARMA, J.

APRIL 15, 2025/gunn/Ss